

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

ROBERT EDWARD PRITT,

Movant,

v.

CIVIL ACTION No. 1:16-05659
(CRIMINAL ACTION No. 1:00-00160)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Aboulhosn submitted to the court his Findings and Recommendation on January 15, 2020, in which he recommended that the court reinstate the above case to the active docket; deny movant's Emergency Motion to Correct Sentence Under 28 U.S.C. § 2255, (ECF No. 67); and remove this matter from the court's docket. (ECF No. 7.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days and three mailing days in which to file any objections to Magistrate Judge Aboulhosn's Findings and Recommendation. The failure of any party to file such objections within the time allowed constitutes a waiver of

such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Objections to the Proposed Findings and Recommendation were due by May 30, 2020. Neither party filed any objections to the Magistrate Judge's Findings and Recommendation. Accordingly, the court also adopts the Finding and Recommendation of Magistrate Judge Aboulhosn as follows:

1. The above case is **REINSTATED** to the court's active docket;
2. Movant's "Emergency Motion to Correct Sentence Under 28 U.S.C. § 2255, (ECF No. 67), is **DENIED**; and
3. The Clerk is directed to remove this case from the court's active docket.


The court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is

not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is directed to send a copy of this Order to counsel of record and any unrepresented parties.

It is SO ORDERED this 28th day of August, 2020.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge